

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEMITA BROWN-WATKINS,

Defendant.

)
) 03 DEC 20 A 10: 03
)

) U.S. DISTRICT COURT
) EASTERN DIST. TENN.
)

Case No.

1-08-CV-296
Collier/KEE

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, the United States of America, alleges against defendant Demita Brown-Watkins ("Brown-Watkins"), as follows:

1. This is a civil action brought by the United States under Sections 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) ("IRC") to enjoin Brown-Watkins from:
 - a. acting as an income tax return preparer;
 - b. preparing federal tax returns, amended returns, and other related documents and forms for others;
 - c. assisting others in the preparation of federal tax returns that she knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
 - d. engaging in any activity that is subject to penalty under IRC §§ 6694, 6695, or 6701; and
 - e. engaging in any fraudulent or deceptive conduct that substantially interferes with the proper enforcement of the internal revenue laws.

Jurisdiction and Venue

2. The Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, has requested that this action be commenced under IRC §§ 7407 and 7408.

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and IRC §§ 7402, 7407, and 7408.

4. This Court has venue over this action pursuant to 28 U.S.C. § 1391(b) because Brown-Watkins resides in Chattanooga, Tennessee, which is within the Eastern District of Tennessee, and because a substantial part of the events giving rise to the United States' claim occurred in Chattanooga.

Brown-Watkins

5. Brown-Watkins has been an income tax return preparer since 2004. She has conducted her tax-return-preparation business through two companies: Fastax (aka Fastax, LLC), located at 2439 Glass St., Chattanooga, TN; and Rapid Tax Service, with locations at 3709 Ringgold Rd., Chattanooga, TN, and 3416 Rossville Blvd., Chattanooga, TN. Her companies use billboards around Chattanooga to advertise their ability to generate the “largest refunds in town.” Through her companies, Brown-Watkins has prepared over 3,000 tax returns since 2004.

6. Between 2004 and 2007, over 98% of the tax returns prepared by Brown-Watkins sought tax refunds.

7. The IRS selected 59 of those tax returns and found that—with the exception of one return—all of them underreported the taxpayer's tax liability a range of \$737 to \$5,511. The average deficiency for those returns was \$2,390.49.

8. The IRS's investigation of tax returns prepared by Brown-Watkins revealed that, on multiple occasions—

- a. Brown-Watkins knowingly listed fictitious Schedule C businesses on the tax returns of customers who were ineligible to file a Schedule C;

- b. Brown-Watkins knowingly selected the incorrect filing status or listed ineligible dependants on her customers' returns;
 - c. Brown-Watkins knowingly listed fictitious expenses on her customers' Schedules A; and
 - d. Brown-Watkins filed claims for education credits for customers who she knew were ineligible for them.
9. Specifically:
- a. On or about April 2, 2004, Brown-Watkins prepared the 2003 income tax return for a working single mother who resided in Chattanooga. Brown-Watkins prepared this person's 2003 and 2004 tax returns. The 2003 tax returns claimed, among other things, (i) an exemption and credit for a foster child, (ii) an education credit, and (iii) deductions in excess of \$10,000 for gifts to charity. The 2004 tax returns claimed, among other things (i) a deduction for a business loss on a Schedule C, (ii) an educational credit, and (iii) an exemption and credit for a foster child. But Brown-Watkins knew that there was no basis for these positions and that they were, in fact, fictitious.
 - b. Brown-Watkins prepared the 2003 income tax return for a woman who resided in Chattanooga. That return claimed a deduction in excess of \$4,000 for gifts to charity even though Brown-Watkins knew that there was no basis for that amount.
 - c. Brown-Watkins prepared the 2004 income tax return for a man who resided in Chattanooga. That tax return claimed a deduction in excess

of \$9,000 for gifts to charity even though Brown-Watkins knew that there was no basis for that amount.

- d. Brown-Watkins prepared the 2004 income tax return for a married couple who resided in Chattanooga. That return claimed an education credit of \$1,500 even though Brown-Watkins knew that there was no basis for that credit.
- e. Brown-Watkins prepared the 2003 income tax return for a married couple who resided in Chattanooga. That return included a Schedule C-EZ (which reports the net profits for a sole proprietorship) even though Brown-Watkins knew that there was no basis for filing that schedule.
- f. Brown-Watkins prepared the 2003 and 2004 returns for a married man who resided in Rossville, Georgia. Through those returns, the man claimed status as “head of household” even though Brown-Watkins knew that he was ineligible to file under that status in both of those years.

10. Brown-Watkins’s fraudulent reporting caused her customers to obtain greater tax refunds or Earned Income Tax Credits than they would have obtained had their tax returns been accurate.

11. Brown-Watkins’s fraudulent conduct as an income tax preparer has harmed the United States by depriving it of tax revenue and causing the IRS to devote substantial resources in auditing the returns that she prepared. Based on the IRS’s

investigation, the IRS estimates that Brown-Watkins has deprived the United States government of over \$8 million in tax revenue.

COUNT I: Injunction under IRC § 7407

12. The United States incorporates by reference its allegations in paragraphs one through eleven of this Complaint.

13. Section 7407 of the Internal Revenue Code authorizes a court to enjoin a person from acting as a tax return preparer if the court finds that the person has continually or repeatedly engaged in conduct that is subject to penalty under IRC § 6694. Section 6694 of the IRC penalizes any tax return preparer who prepares any return with respect to which any part of an understatement of liability is due to a position—

- a. that the tax return preparer knew (or reasonably should have known) of;
- b. that the tax return preparer did not reasonably believe would be sustained on its merits; and
- c. for which there as no reasonable basis.

14. Brown-Watkins has continually and repeatedly prepared returns and claims for refunds with respect to which an understatement of liability is due to a position—

- a. that Brown-Watkins knew or reasonably should have known of;
- b. that Brown-Watkins did not reasonably believe would be sustained on its merits; and
- c. for which there was no reasonable basis.

15. Through Brown-Watkins, customers of hers—on a continual and repeated basis—have understated their tax liabilities due to positions for which there was no reasonable possibility of being sustained on the merits; Brown-Watkins knew or reasonably should have known of these positions, and the positions were frivolous.

16. Brown-Watkins has continually and repeatedly engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

17. Brown-Watkins's actions, as described above, fall within IRC § 7407(b)(1)(A) and (D).

COUNT II: Injunction under IRC § 7408

18. The United States incorporates by reference the allegations in paragraphs one through seventeen of this Complaint.

19. Section 7408 of the Internal Revenue Code authorizes courts to enjoin any person from further engaging in any action or failure to take action that is subject to penalty under IRC § 6701. Section 6701 penalizes any person who prepares, procures, or assists in the preparation of any tax return that he or she knows will result in an understatement of another person's tax liability.

20. Brown-Watkins has repeatedly prepared and procured tax returns that she knew would result in an understatement of her customers' tax liability.

21. Brown-Watkins knowingly and willfully prepared and procured tax returns based on false information to understate her customers' tax liability and to generate fraudulent refunds.

22. Injunctive relief is necessary to prevent Brown-Watkins from fraudulently understating her customers' tax liability and from overstating her customers' entitlements to refunds.

Count III: Injunction under IRC § 7402

23. The United States incorporates by reference its allegations in paragraphs one through 22 of this Complaint.

24. Section 7402(a) of the Internal Revenue Code authorizes courts to issue any injunction that is necessary or appropriate for the enforcement of the internal revenue laws.

25. Brown-Watkins, through her actions detailed above, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

26. The income tax returns that Brown-Watkins prepares for her customers fraudulently reduce their reportable income through fictitious or inflated deductions and credits.

27. If Brown-Watkins is not enjoined from engaging in this fraudulent and deceptive conduct, the United States will suffer irreparable injury in the form of lost revenue.

28. An injunction prohibiting Brown-Watkins from further engaging in fraudulent and deceptive conduct will advance the public interest by preventing her from further impairing the country's fisc.

29. If the Court does not enjoin Brown-Watkins, she is likely to continue to interfere with the enforcement of the internal revenue laws.

WHEREFORE, the United States respectfully requests that the Court:

- A. find that Brown-Watkins has continually and repeatedly engaged in conduct that is subject to penalty under IRC § 6694 and that injunctive relief is appropriate to prevent recurrence of that conduct;
- B. find that Brown-Watkins has engaged in conduct that interferes with the enforcement of the internal revenue laws and that injunctive relief is appropriate to prevent the recurrence of that conduct;
- C. enter a permanent injunction, pursuant to IRC §§ 7402(a) and 7407(b), prohibiting Brown-Watkins from acting as an income tax return preparer;
- D. enter a permanent injunction, pursuant to IRC §§ 7402(a) and 7408(b), prohibiting Brown-Watkins from:
 - i) preparing or filing federal income tax returns, amended returns, and other related documents and forms for others;
 - ii) assisting others in the preparation of federal tax returns that she knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
 - iii) engaging in any activity that is subject to penalty under IRC §§ 6694, 6695, or 6701; and
 - iv) engaging in any fraudulent or deceptive conduct that substantially interferes with the proper enforcement of the internal revenue laws;
- E. retain jurisdiction over Brown-Watkins and this action for the purpose of enforcing any permanent injunction entered against Brown-Watkins;

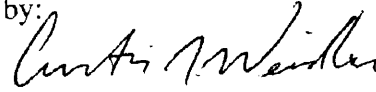
F. authorize the United States to conduct all discovery permitted under the Federal Rules of Civil Procedure for the purpose of monitoring Brown-Watkins's compliance with any permanent injunction entered against her; and

G. grant the United States such other and further relief, including costs, as is just and equitable.

Dated: December 29, 2008

NATHAN J. HOCHMAN
Assistant Attorney General

by:



Curtis J. Weidler
Trial Attorney, Tax Division
United States Department of Justice
P.O. Box 7238
Washington, D.C. 20044
Tel: (202) 307-1436
Fax: (202) 514-6770
E-mail: curtis.j.weidler@usdoj.gov